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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,422	03/09/2005	Holger Bering	2007USWO	6761

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ADVANCED RADIO CORPORATION  
1763 FOUNTAIN DRIVE  
SUITE 101  
RESTON, VA 20190

EXAMINER
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DEL COTTO, GREGORY R

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/518,422	Applicant(s) BIERING ET AL.	
	Examiner Gregory R. Del Cotto	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/17/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. Claims 1-15 have been canceled. Claims 16-20 are pending. The preliminary amendment filed 11/17/04 has been entered.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Objections***

Claims 16-20 are objected to because of the following informalities:

With respect to claim 16, right after "ii)" it appears that the word "textile" should be deleted.

Appropriate correction is required. Note that, claims 17-20 have also been objected to due to their dependency on claim 16.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 16, it is vague and indefinite in that the method of cleaning textiles recites comprising applying to the textile a) an additive which is a quaternary ammonium compound and also applying, b) "a water-containing preparation" containing an antimicrobial agent and an additive which is the same quaternary ammonium

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compound as recited in component a); the only method step is applying components a) and b) to the substrate and it is unclear if this application happens in one step, two-steps, three steps, etc. since the quaternary compounds overlap in scope and may be just part of one composition. For purposes of examination, the Examiner as interpreted claim 16 as a two-step process in which the textile is first treated with component a) and then treated with component b), the water-containing preparation, which is consistent with page 9, lines 5-20 of the specification. Note that, claims 17-20 have also been rejected due to their dependency on claim 16.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sidoti (US 2003/0008795) in view of Delaney et al (US 6,090,768) or Hopkinson et al (US 6,358,903).

Sidoti teaches improved spot cleaning compositions particularly useful for the localized cleaning of stains from garments and textiles. See Abstract. The cleaning composition contains a deterative surfactant selected from anionic, nonionic, cationic, amphoteric, and zwitterionic surfactants and mixtures thereof, an organic solvent selected from alcohols, diols, glycol, glycol ethers, an enzyme, and a xanthan gum. See paras. 6-12. Suitable cationic surfactants include both short chain alkyl and long chain alkyl quaternary ammonium compounds. These surfactants include R groups wherein at least one of the R groups is an alkyl group having from 6 to 26 carbon atoms. See paras. 40-42; the Examiner asserts that these cationic surfactants would encompass the cationic surfactants recited by component a) of instant claim 16. These surfactants are present in amounts from 0.001 to 25% by weight of the composition. See para. 46. The spot cleaning is carried out just prior to a subsequent laundering step.

Sidoti does not teach applying to a textile a specific composition containing an antimicrobial agent, quaternary ammonium compound, and the other requisite

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components of the composition after applying the pre-spotting compositions as recited by the instant claims.

Delaney et al teach liquid laundry detergent compositions which provide good detergency for the cleaning of garments and textiles. These compositions contain 2-20 parts by weight of one or more anionic surfactants, 1 to 25 parts by weight of one or more quaternary ammonium surfactants having germicidal properties, 2 to 40 parts by weight of one or more nonionic surfactants, 0.001 to 1 parts by weight of compatible optical brighteners, and 0 to 10 parts by weight of one or more further anionic surfactants, the composition containing water. See column 5, lines 35-69. Suitable cationic surfactants include long-chain quaternary ammonium surfactants, dioctyl dimethyl ammonium chloride, etc. See column 7, line 30 to column 9, line 15. The Examiner asserts that the quaternary ammonium compounds as taught by Delaney et al would encompass mixtures of the antimicrobial agent and additive as recited by component b) of instant claim 16.

Hopkinson et al teach a laundry treatment composition comprising peroxygen bleach and a water-soluble or water-dispersible rebuild agent for redeposition onto a fabric during the laundry process. See Abstract. Additionally, surfactants may be used in the compositions which include cationic quaternary ammonium compounds having the same general formula as the antimicrobial agent as recited by component b) of claim 16. See column 16, lines 45-69. The total amount of surfactant is generally in an amount from 5 to 40% by weight. Additionally, a fabric softening agent may be used in the composition in amounts from 0.5 to 30% by weight of the composition. Suitable

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quaternary ammonium compounds fabric softening agents include include those compounds having two long chain alkyl groups such as di-hardened tallowdiethyl ammonium chloride, etc. Additional fabric softening agents include a compound having two C12-C22 alkyl or alkenyl groups connected to a quaternary ammonium head group via at least one ester link, preferably two ester links. Note that, the Examiner asserts that these fabric softening agents fall within the formula for the additive component as recited by component b) of instant claim 16. See column 7, line 10 to column 9, line 65.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a cleaning composition containing an antimicrobial agent, an additive and the other requisite components of the composition to clean textiles after the application of a prespotting composition as taught by Sidoti, with a reasonable expectation of success, because Delaney et al or Hopkinson et al teach a laundry cleaning composition containing an antimicrobial agent, an additive and the other requisite components of the composition and further, Sidoti teaches that after application of the pre-spotting composition a laundry composition is used.

### ***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.


Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gregory R. Del Cotto  
Primary Examiner  
Art Unit 1751

GRD  
September 27, 2005